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PTO/SB/64 (07-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 9211-91283
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First named inventor: Bernard H. Cohen

Application No.: 10/826,943

Art Unit: 2859

Filed: April 16, 2004

Examiner: Tania C. Courson

Title: Method and Device for Measuring Fluctuations in the Cross-Sectional Area of Hair in a Predetermined Scalp Area

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained. International Chinese application filed on April 15, 2005 over 45 days ago

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

<u>Thomas R. Vigil</u> Signature	_____ Date
<u>Thomas R. Vigil</u> Typed or printed name	<u>24,542</u> Registration Number, if applicable
<u>Welsh & Katz, Ltd., 120 South Riverside Plaza, Floor 22</u> Address	<u>(312) 655-1500</u> Telephone Number
<u>Chicago, IL 60606</u> Address	

- Enclosures: ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other: Fee already charged in 11/105,241 to deposit account no. 23-0920

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

August 31, 2005
Date

Thomas R. Vigil
Signature

Thomas R. Vigil
Typed or printed name of person signing certificate



PATENT
USSN 10/826,943
Atty. Docket No. 9211-91283

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:)	
)	
Bernard H. Cohen)	Group Art Unit: 2859
)	
For: Method and Device for Measuring)	Confirmation No.: 1624
Fluctuations in the Cross-Sectional)	
Area of Hair in a Predetermined Scalp)	Examiner: Tania C. Courson
Area)	
)	
Filed: April 16, 2004)	
)	
Serial No.: 10/826,943)	

LETTER SUBMITTING CORRECTED PETITION

To: Ms. Karen Creasy
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Ms. Creasy:

With reference to your letter of August 10, 2005 dismissing the Petition under 37 C.F.R. 1.137(b) and application serial no. 11/105,241, Applicant's attorney has discovered that the Petition was filed for the wrong application.

The Petition should have been filed for the parent application serial no. 10/826,943 filed April 16, 2004. Apparently, Applicant's attorney and his secretary mixed up the files and the Petition was erroneously filed on the Continuation In Part application rather than on the parent application.

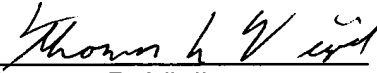
Accordingly, a corrected Petition for the correct application is attached. Since a refund is due for the Petition fee on the Continuation In Part application, Applicant requests that the fee be credited to the attached Petition on the parent application.

Applicant thanks the Petitions Examiner for her assistance in this matter and apologizes for sending in the Petition on the child application rather than the parent application.

Respectfully submitted,

WELSH & KATZ, LTD.

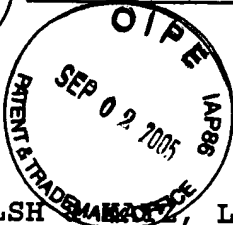
August 31, 2005

By: 
Thomas R. Vigil
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UNITED STATES PATENT AND TRADEMARK OFFICE



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AUG 10 2005

OFFICE OF PETITIONS

In re Application of
Bernard H. Cohen
Application No. 11/105,241
Filed: April 13, 2005
Attorney Docket No. 93793

:
: DECISION DISMISSING
: PETITION UNDER
: 37 CFR 1.137(b)
:

This is a decision on the petition, filed June 1, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is DISMISSED as Moot.

Upon careful review of the application file, there is no evidence that a request under 35 U.S.C. 122(b) (nonpublication request) was ever filed. In view thereof, the petition is dismissed as moot.

Additionally, petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to Technology Center AU 2859.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

